

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUSTIN SAMUELS,

Plaintiff,

-v-

BARNARD COLLEGE,

Defendant.

CIVIL ACTION NO. 23 Civ. 6181 (PAE) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge.

On January 12, 2024, Defendant Barnard College (“Barnard”) filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) (the “Motion”) the First Amended Complaint (ECF No. 9 (the “FAC”)) filed by pro se Plaintiff Justin Samuels (“Mr. Samuels”). (ECF No. 24). On January 16, 2024, the Honorable Paul A. Engelmayer issued an Order giving Mr. Samuels the option of either opposing the Motion or filing a Second Amended Complaint (“SAC”) by February 2, 2024 (ECF No. 26 (the “Jan. 16 Order”)), and referred the Motion to the undersigned for a Report and Recommendation (ECF No. 27). On January 16, 2024, the Clerk of Court docketed three filings from Mr. Samuels: (1) a January 14, 2024 letter to Judge Engelmayer with “additional points for consideration” (ECF No. 29), (2) a January 16, 2024 memorandum of law in opposition to the Motion (ECF No. 30), and (3) a January 12, 2024 letter, which Mr. Samuels asks to be considered as an “amended complaint” (ECF No. 31).

The Court construes Mr. Samuels’ filing at ECF No. 31 to be a request to amend the FAC pursuant to the Jan. 16 Order and the request is GRANTED. The document filed at ECF No. 31 shall be considered the Second Amended Complaint (“SAC”) and the operative pleading in this case. Per the Jan. 16 Order, by **February 23, 2024**, Barnard shall either “(1) file an answer; (2) file

a new motion to dismiss; or (3) submit a letter to the Court, copying [Mr. Samuels], stating that [Barnard] rel[ies] on the previously filed motion to dismiss.” (ECF No. 26).

Dated: New York, New York
January 17, 2024

SO ORDERED.


SARAH L. CAVE
United States Magistrate Judge